

Business Constituency Position Paper

Toward a Business Constituency Position on ICANN Restructuring and Evolution

Rapporteur: Marilyn Cade, mcade@att.com

Background

On February 24, 2002, the President of ICANN, Dr. Stuart Lynn, posted “ICANN – The Case for Reform”. This document was followed on March 10, 2002, by the final version of “Toward a Statement of the ICANN Mission”. These two documents, taken together, form the basis for consideration by the ICANN board and the community for restructuring and refocus of ICANN.

The board Committee on ICANN Evolution and Reform, has the overall responsibility for monitoring community discussion, and evaluating and making recommendations to the board on restructuring proposals. The chair of the board Committee has noted that proposals should be received before late April; however, there will be other mechanisms for input which the BC may provide comments to.

ICANN is well into its fourth year. From the BC perspective, ICANN’s efforts to introduce competition into the domain name registration business, the successful creation of the UDRP to deal with collisions between domain names and trademarks, and the introduction of the first generic TLDs mark significant achievements. As evolution of ICANN is considered, it is important that its progress and achievements are built on.

The BC is in large part in agreement with the Case for Reform in its identification of the challenges facing ICANN; however, the BC believes that the proposed solutions require additional work in order to maintain consistency with the original principles of stability, competition, private bottom up coordination and representation. The BC supports evolution of the global private sector model.

Guiding Concepts and Principles for ICANN Evolution and Restructuring:

1. Maintain consistency with the White Paper principles. Efforts at restructuring ICANN must support the original principles of the White Paper:

- stability,
- competition
- private bottom up coordination and
- representation [including geographic diversity]

2. Reform ICANN by evolution not revolution. The BC strongly prefers an evolutionary approach to improving ICANN’s functioning, while addressing the critical areas of needed improvement first – funding and key stakeholder relationships.

3. Maintain ICANN’s Current Functions: The BC supports maintaining the current functions which ICANN manages, as described in “Toward a Statement of the ICANN Mission.”

4. Continue Advisory Role of Government. The BC recommends that the GAC outreach to other governmental colleagues to support ICANN's private sector leadership role in the technical coordination and management of the DNS. The GAC chair, or an elected representative from the GAC could be added to the board in an ex officio, non voting role.

5. Improve and Accelerate the Consensus Bottom up Policy Development Process:

- Ensure that policy development remains a consensus, bottom up process, with all stakeholders represented.
- Provide staff support to all parts of the policy development process.
- Avoid elevating general policy development to the Board or to the staff. However, in the event of a policy failure, or urgent situation which threatens the stability of the Internet, the BC can support an exceptional process which provides a mechanism for Senior Staff and/or Board requests to the staff for drafting of policy recommendations, and a fast track community review/comment process
- The BC recommends that we should seek first to improve the present process of policy development. Where, and
- if alternative mechanisms [such as forums] are considered for policy development the BC recommends these mechanisms also follow a consensus based, bottom up process.
- Examine the proposed "forum" structure to determine any improved benefits to the functioning of policy development over the existing constituency model of the DNSO.
- Examine whether the GA can support structured discussion forums on policy issues to ensure diversity of input.
- Establish a formal means of exchanging ideas and informational discussions between the GAC and the existing SOs/or their counterparts through a scheduled "dialogue" session at each ICANN meeting.

6. Improve and Strengthen ICANN's key relationships: In keeping with the core mission of ensuring the stability of the Internet, ICANN needs stronger relationships with the ccTLDs, RIRs and Root Server Operators:

- Support the role of the ccTLDs as participants within the ICANN process, and ensure an effective consultation mechanism for collaboration on policy areas of mutual impact with the gTLD domain name entity/SO.
- Work to achieve effective and mutually agreeable, models for the RIRs, Root Server operators and technical community, to participate in ICANN.

7. Establish and support key Standing committees: The BC supports transparent standing committees on key functions such as security, root server operation, etc.

8. Ensure representative Board selection:

- Enable the existing supporting organizations, or other entities selected for representation, to determine the selection of their board representation, following an election process if appropriate and self managed.
- Provide a mechanism to include as ex-officio members the chairs of advisory bodies that are created in the restructuring. [GAC, etc.]
- avoid functional segmentation by ensuring that key stakeholder categories, not sub-categories, participate [e.g. technical community, RIRs, gTLD community, ccTLD community, etc.]
- Develop model for board size and composition which ensures the board can function while reflecting the establishment of the ccTLD as an entity separate from the gTLD entity
- Support the opportunity for the At Large to self organize and meet key benchmarks for participation; defer election as means to select board members to give time to self organize and develop stable base of funding and collaboration. Examine effective mechanisms for board selection process.
- Preserve the existing five at large seats either by 1) extending existing five elected members or 2) having an interim appointment process to fill those seats.
- Better define the purpose of any nominating committee and its scope of contribution to any of the key stakeholder groups.

9. Transparency:

Given the importance of developing an effective mechanism for independent review, give consideration to the creation of a combined committee which could include: the GAC chair, the IAB chair, two board members or past board members, and an appointed and paid ombudsman

10. Funding and Stability

- Develop and support the concept of a gTLD user fee which is part of the registration of a gTLD domain name, collected by the Registry and Registrar at the time of registration and renewal, which forms the majority of ICANN's funding. After subtracting a not to exceed cost administration fee, the payments would be aggregated and paid to ICANN to make up the majority of their funding. This model in effect builds on existing practice.
- Maintain contributions from ccTLDs and RIRs.
- Do not seek government funding, other than cost recovery for administrative services provided to the GAC, such as meeting fees, secretariat, etc.

Being part of the solution: Many BC members helped to found ICANN because we believe strongly in the White Paper principles. The BC reaffirms our commitment to those principles, to ICANN's role as the global private sector entity responsible for the technical coordination and management of the DNS, and to the successful evolution of ICANN's structure and procedures to ensure ICANN's success in fulfilling its global mission.